



## **H.R. 2831 – Ledbetter Fair Pay Act**

### **Floor Situation**

The Ledbetter Fair Pay Act is being considered on the floor pursuant to a closed rule. The rule:

- Provides one hour of debate equally divide and controlled by the Chairman and Ranking Member of the Committee on Education and Labor.
- Waives all points of order against its consideration except for clauses 9 (earmarks) and 10(PAYGO) of Rule XXI.
- Provides one motion to recommit with or without instructions.

H.R. 2831 was introduced by Representative George Miller (D-CA) on June 22, 2007. The bill was ordered to be reported from the Committee on Education and Labor, by a party-line recorded vote of 25-20, on June 27, 2007.

The Ledbetter Fair Pay Act is scheduled to be considered on the floor on July 30, 2007.

### **Executive Summary**

H.R. 2831 is a direct legislative response to the Supreme Court decision on May 29, 2007, *Ledbetter v. Goodyear Tire & Rubber Co., Inc.* In this case, the Court upheld the reporting statutory time limit of Title VII of the Civil Rights Act of 1964 regarding discriminatory acts. The Ledbetter Fair Pay Act would dramatically alter Title VII.

Lilly Ledbetter was an employee of Goodyear at the tire assembly department in Gadsden, Alabama. She filed suit against the company in March of 1998, claiming that she received lower pay than her male colleagues. During the court proceedings, she and her lawyers argued that each paycheck she received once the perceived discrimination began was in effect a new and separate discrimination. However, the Supreme Court rejected this argument and upheld current law regarding reporting statutory time limit of Title VII. The time limit was put in place to ensure swift action in cases of discrimination. (For more information, see the Background section)

If H.R. 2831 were to become law, it would eliminate the filing deadlines for discrimination in Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967, the Americans

with Disabilities Act of 1990, and the Rehabilitation Act of 1973. Under this new provision, each and every paycheck that represents a perceived discriminatory act becomes a new act of discrimination and extends the statutory time limit for reporting.

The bill would also permit employees, and seemingly their family members, to file discrimination suits based on paychecks or pension payments if the discrimination occurred years before. In terms of pensions, a person may not have worked at the company for decades and they would still be able to file suit.

The bill would also make this law retroactive to May 27, 2007, which happens to be 2 days before the Supreme Court ruled on the Ledbetter case.

The Administration released a Statement of Administration Policy regarding H.R. 2831. In the SAP, the President's senior advisors stated they would advise the President to veto the bill.

### **Background**

Beginning in 1979, Lilly Ledbetter worked as supervisor at Goodyear's tire assembly department in Gadsden, Alabama. Ms. Ledbetter held this position until 1998, when she received an anonymous letter claiming that she was receiving less pay for the same position as her male colleagues because of her sex.

After receiving this letter, Ms. Ledbetter filed a discrimination charge with the Equal Employment Opportunity Commission in March of 1998, under Title VII of the Civil Rights Act, which makes it illegal for employers to discriminate on the basis of race, color, religion, sex, or national origin.

Under Title VII of the Civil Rights Act, claims must be filed within 180 days (or 300 days, depending on the state) of the original discriminatory act. Nonetheless, Ms. Ledbetter filed suit against Goodyear Tire & Rubber Co, Inc, in the Northern District of Alabama. During this trial, Ms. Ledbetter's attorneys argued that each paycheck represented a discriminatory act and therefore she was entitled to sue pursuant to Title VII.

Goodyear argued that the difference in pay was not based on her sex, but rather based upon poor job reviews she had received during her career at the assembly department. The managers at the plant implemented a system in 1982 that ranked output and performance of its employees. Based on this system, raises were awarded for those at the top of the list and those at the bottom were not granted raises. Throughout her career, Ms. Ledbetter constantly ranked near the bottom of this list and because of this, Goodyear argued, she did not receive raises.

Because of the timing of her lawsuit, Ms. Ledbetter was only able to offer evidence of pay discrimination that occurred after September 1997, due to Title VII. Still, the court ruled in her favor and awarded her \$4 million in pay and punitive damages, which the judge then reduced to \$360,000.

Goodyear appealed the ruling in the 11<sup>th</sup> Circuit Court of Appeals, which unanimously dismissed the claim and award. In writing for the Court, Judge Gerald Tjoflat wrote Ledbetter's Title VII claim must stem from some discriminatory act, either the issuance of an insufficient paycheck or a manager's raise recommendation, citing *National Railroad Passenger Corp. v. Morgan*. Regardless, the act had a 180-day expiration date.

Due to the fact that Title VII prevented Ms. Ledbetter from presenting evidence of sexual discrimination that occurred before September 1997, Ms. Ledbetter needed to offer evidence at trial that the pay checks she received after September 1997 were discriminatory against her. Judge Tjoflat ruled that she failed to prove that pay discrimination occurred after September 1997. He also ruled that individual illegal acts that occurred before the limitations period began cannot be aggregated and introduced to demonstrate intent or to broaden the scope of damages.

Following this ruling, Ms. Ledbetter appealed to the Supreme Court of the United States. On May 29, 2007, in a 5-4 decision, the Court ruled against Ms. Ledbetter. Writing for the majority, Justice Samuel Alito explained that “Ledbetter should have filed an E.E.O.C. charge within 180 days after each allegedly discriminatory pay decision was made and communicated to her. She did not do so, and the paychecks that were issued to her during the 180 days prior to the filing of her E.E.O.C. charge do not provide a basis for overcoming that prior failure.”

Justice Alito also noted “This short deadline (180 or 300 days) reflects Congress’s strong preference for the prompt resolution of employment discrimination allegations through voluntary conciliation and cooperation.” The Supreme Court decision upheld the reporting statutory time limit of Title VII.

## **Summary**

H.R. 2831 would amend Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967, the Americans with Disabilities Act of 1990, and the Rehabilitation Act of 1973.

Specifically, the language is changed to include “when a discriminatory compensation decision or other practice is adopted, when an individual becomes subject to a discriminatory compensation decision or other practice, or when an individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.”

This language would effectively eliminate the filing deadlines for discrimination lawsuits under the above laws.

The bill would also make these affects retroactive to May 27, 2007, which is 2 days before the Ledbetter ruling.

**Additional Views**

“The Administration supports our Nation’s anti-discrimination laws and is committed to the timely resolution of discrimination claims. For this and other reasons, the Administration strongly opposes the Ledbetter Fair Pay Act of 2007. H.R. 2831 would allow employees to bring a claim of pay or other employment-related discrimination years or even decades after the alleged discrimination occurred. H.R. 2831 constitutes a major change in, and expanded application of, employment discrimination law. The change would serve to impede justice and undermine the important goal of having allegations of discrimination expeditiously resolved. Furthermore, the effective elimination of any statute of limitations in this area would be contrary to the centuries-old notion of a limitations period for all lawsuits. If H.R. 2831 were presented to the President, his senior advisors would recommend that he veto the bill.” Statement of Administration Policy, July 27, 2007.

**Cost**

“CBO estimates that H.R. 2831 would not significantly increase costs to the EEOC or to the federal courts over the 2008-2012 period. Enacting the bill would not affect revenues or direct spending.” [CBO Cost Estimate](#)

**Staff Contact**

For questions or further information contact Chris Vieson at (202) 226-2302.